

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

DISCOVERORG, LLC,	)	
	)	
Plaintiff,	)	Case No.
	)	
v.	)	COMPLAINT
	)	
WESUCCEED SOLUTIONS, INC.,	)	JURY DEMAND
	)	
Defendant.	)	

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Plaintiff DiscoverOrg, LLC (“DiscoverOrg”), for its complaint against WeSucceed Solutions, Inc. (“WeSucceed”) alleges as follows:

**PARTIES**

1. DiscoverOrg is a Delaware limited liability corporation with its principle place of business in Vancouver, Washington.

2. WeSucceed is an Illinois corporation with a principal place of business in the State of Illinois and does business in the State of Washington.

**JURISDICTION AND VENUE**

3. This court has jurisdiction over the subject matter of the claims herein pursuant to 18 U.S.C. §§ 1331 and 1338(a) and (b) because DiscoverOrg’s claim arises under Federal Law.

4. This court also has jurisdiction over DiscoverOrg’s state law claims pursuant to 28 U.S.C. § 1367 under principles of supplemental jurisdiction.

1           5.       This court has personal jurisdiction over WeSucceed, and venue is properly laid  
2 in this district court pursuant to 28 U.S.C. § 1391 and 28 U.S.C. §1400(a), in that WeSucceed  
3 transacts business in this state and has committed tortious acts within this state.

4                               **FACTS AND ALLEGATIONS**

5       **A.     DiscoverOrg's Database**

6           6.       DiscoverOrg is a provider of business-to-business ("b2b") marketing data for  
7 the information technology ("IT") industry. DiscoverOrg uses technology, computers, and  
8 electronic communication systems to provide subscribers with profiles, contacts, and other  
9 information relating to the IT, finance, and marketing infrastructure of Fortune 5000 and mid-  
10 market companies around the United States. DiscoverOrg's database contains profiles and  
11 organizational charts of more than 23,000 companies and contains more than 400,000 business  
12 contacts. DiscoverOrg has been recognized in the industry as the most complete and accurate  
13 b2b marketing database. The depth, breadth, and accuracy of DiscoverOrg's data are unrivaled  
14 in the marketplace.

15          7.       DiscoverOrg has made substantial investments in infrastructure and resources to  
16 support its database and ensure that it is of the highest quality. DiscoverOrg's highly-trained  
17 research analysts focus exclusively on building, managing, and updating DiscoverOrg's  
18 database, resulting in timely and comprehensive data being made available to DiscoverOrg's  
19 clients. DiscoverOrg has expended substantial labor, time, resources, effort, and money to  
20 select, gather, collect, organize, generate, arrange, and disseminate the timely and continuously  
21 updated information DiscoverOrg provides in its database. For example, DiscoverOrg employs  
22 approximately 150 employees and has made significant investment in developing and  
23 purchasing software, hardware and other equipment to continuously update and support the  
24 accuracy and comprehensiveness of its database. DiscoverOrg's database exhibits  
25 DiscoverOrg's decisions and input as to the selection, arrangement, orchestration, compilation,  
26 and presentation of the organizational charts, contacts, and other information collected and  
27 assembled by DiscoverOrg's analysts.

1           8. DiscoverOrg's database is of unparalleled value to companies like WeSucceed,  
2 who seek detailed information to assist in their efforts to market their IT-related products and  
3 services. DiscoverOrg has licensed subscription access to its database to over 1400 companies,  
4 each of whom pays a significant license fee for the right to access and use DiscoverOrg's  
5 database.

6           9. The value of DiscoverOrg's database is directly related to and dependent upon  
7 its proprietary and non-public nature. Accordingly, DiscoverOrg takes substantial steps to  
8 protect the security of the information contained in its database. For example, DiscoverOrg  
9 limits access to its database to only authorized users pursuant to a restrictive license agreement,  
10 which limits the number of users who have access to DiscoverOrg's database and requires that  
11 all information be destroyed after the terms of the license agreement expire. DiscoverOrg  
12 password protects access to its database, and utilizes mail monitoring and list protection at  
13 substantial costs to further secure and ensure the integrity of DiscoverOrg's database.

14 **B. WeSucceed's Wrongful Conduct**

15           10. All actions alleged to have been done by WeSucceed were, upon information  
16 and belief, performed by employees or other agents of WeSucceed within the scope of their  
17 employment or other agency relationship with WeSucceed, on WeSucceed's behalf, and for  
18 WeSucceed's benefit.

19           11. WeSucceed used identification information and passwords that did not belong  
20 to it, and that it was not authorized to use, in order to access DiscoverOrg's database. From  
21 September 8, 2014 through February 18, 2015, WeSucceed gained unauthorized access to  
22 DiscoverOrg's database using usernames and passwords issued to DiscoverOrg clients pursuant  
23 to such clients' valid licenses.

24           12. On these occasions, WeSucceed accessed and downloaded DiscoverOrg's  
25 proprietary information without permission from DiscoverOrg. WeSucceed used their  
26 unauthorized access to perform searches within the database using DiscoverOrg's technology  
27 and to view and download thousands of records. There are approximately 17 known incidents

1 of unauthorized access to DiscoverOrg's database by WeSucceed, during which WeSucceed  
2 downloaded more than 21,000 records.

3 13. WeSucceed acted knowingly, intentionally, and willfully in accessing  
4 DiscoverOrg's computer and electronic communication system without authorization and in  
5 viewing and downloading DiscoverOrg's proprietary, copyrighted information. WeSucceed  
6 circumvented DiscoverOrg's security system and unlawfully accessed DiscoverOrg's database  
7 to gain the commercial benefit thereof without compensating DiscoverOrg. WeSucceed's  
8 unauthorized use of DiscoverOrg's proprietary information has furthered WeSucceed's  
9 financial interest by facilitating identifying and contacting potential new customers and  
10 business opportunities, among other uses, and WeSucceed has wrongfully profited therefrom.

11 14. At all relevant times, WeSucceed had a duty to train and supervise the conduct  
12 of its employees and agents acting on its behalf. WeSucceed was negligent in failing to  
13 appropriately train and monitor its employees and agents and failing to have appropriate  
14 policies in place regarding unauthorized access to computer systems, communication, storage  
15 networks, and copyrighted works and/or failing to enforce such policies.

16 **FIRST CLAIM FOR RELIEF**

17 (Copyright Infringement)

18 15. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1-  
19 14.

20 16. DiscoverOrg's database is an original work of authorship containing  
21 copyrightable subject matter for which copyright protection exists under the Copyright Act.  
22 DiscoverOrg has filed for copyright registration with the United States Copyright Office in  
23 compliance with 17 U.S.C. § 101 *et seq.* DiscoverOrg's copyright was registered December 27,  
24 2010 with registration number TX0007487999.

25 17. As owner of all right, title, and interest in and to the copyrighted works,  
26 DiscoverOrg is entitled to all the exclusive rights and remedies accorded by Section 106 of the  
27 Copyright Act to a copyright owner, including the exclusive rights to reproduce the copyrighted

1 works and to sell non-exclusive licenses to those copyrighted works.

2 18. WeSucceed has gained access to and made and used copies of DiscoverOrg's  
3 copyrighted material without authorization or license from DiscoverOrg. WeSucceed used  
4 those copies without compensating DiscoverOrg for WeSucceed's financial gain without  
5 compensating DiscoverOrg. In doing so, WeSucceed has violated DiscoverOrg's exclusive  
6 rights of reproduction and distribution.

7 19. At all relevant times, WeSucceed had the right and the ability to supervise and  
8 monitor the actions its employees and agents, whose actions were performed on its behalf and  
9 for its direct financial benefit and were within the scope of their employment for WeSucceed.

10 20. With knowledge of the infringing activity, WeSucceed induced, caused,  
11 facilitated, encouraged, and/or or materially contributed to the infringing conduct.

12 21. WeSucceed's acts of infringement have been willful and intentional, in disregard  
13 of and with indifference to the rights of DiscoverOrg.

14 22. As a direct and proximate results of the foregoing acts, DiscoverOrg has been  
15 and will continue to be harmed. DiscoverOrg is entitled to its actual damages, including any  
16 and all profits due to WeSucceed's wrongful conduct, or statutory damages. DiscoverOrg is  
17 also entitled to its costs, including reasonable attorney fees.

18 **SECOND CLAIM FOR RELIEF**

19 (Violation of the Computer Fraud and Abuse Act)

20 23. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1-  
21 14.

22 24. DiscoverOrg's computer system and database comprise "protected computers"  
23 within the meaning of 18 U.S.C. § 1030(e)(2).

24 25. WeSucceed, knowingly and with intent to defraud DiscoverOrg, accessed  
25 DiscoverOrg's protected computers without authorization and thereby obtained valuable  
26 information from such protected computers using interstate communication.

27 26. WeSucceed's actions constitute violations of 18 U.S.C. §§ 1030(a)(2)(C) and

1 1030(a)(4).

2 27. WeSucceed's unauthorized access of DiscoverOrg's computer has caused loss  
3 to DiscoverOrg during a 1-year period of more than \$5,000 in value.

4 28. By reason of the foregoing, DiscoverOrg is entitled to compensatory damages  
5 in an amount to be determined at trial pursuant to 18 U.S.C. § 1030(g).

6 **THIRD CLAIM FOR RELIEF**

7 (Violation of the Stored Communications Act)

8 29. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1-  
9 14.

10 30. DiscoverOrg's network of computer servers and related equipment constitutes a  
11 "facility" providing "electronic communications services" as those terms are defined in 18  
12 U.S.C. § 2510(15). DiscoverOrg's database constitutes an "electronic storage" device as that  
13 term is defined in 18 U.S.C. § 2510(17).

14 31. WeSucceed willfully and intentionally accessed DiscoverOrg's password-  
15 protected computer service and database without authorization and obtained wire and electronic  
16 communications between DiscoverOrg and its clients stored therein.

17 32. WeSucceed's actions constitute willful and intentional violations of 18 § U.S.C.  
18 § 2701. By reason of the foregoing, DiscoverOrg is entitled to recover compensatory damages,  
19 statutory, and punitive damages, WeSucceed's profits, and DiscoverOrg's attorney fees and  
20 costs against WeSucceed pursuant to 18 U.S.C. § 2707.

21 **FOURTH CLAIM FOR RELIEF**

22 (Misappropriation of Trade Secrets)

23 33. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1 -  
24 14.

25 34. DiscoverOrg gathers, organizes, generates, collects, and assembles in-depth,  
26 commercially-valuable information (including reporting structures, contact information, and  
27 other data) expending substantial time, labor, and expense.

35. The compilation of information in DiscoverOrg's database is the exclusive knowledge of DiscoverOrg and is not known, and cannot be accessed, by anyone except customers who have agreed to maintain the confidentiality of such information through a restrictive license, which forbids them from sharing or disseminating the information and requires that they return and/or destroy the information when their license expires. The commercial value of DiscoverOrg's database is directly correlated to and dependent upon its proprietary and non-public nature.

36. DiscoverOrg protects the information in its database by limiting access to those customers who agree to the terms of the access in the licensing agreement. DiscoverOrg monitors access to the database and use of the information to further ensure its security.

37. WeSucceed willfully and maliciously misappropriated DiscoverOrg's trade secrets by accessing DiscoverOrg's computer systems without authorization, copying the information contained therein, and using that information for WeSucceed's financial gain.

38. WeSucceed's actions have caused damage to DiscoverOrg in the form of lost profits and diminution of the market value of its database. By reason of the foregoing, WeSucceed is liable to DiscoverOrg for reasonably royalties, compensatory damages, wrongfully derived revenues, and exemplary damages, in an amount to be proven at trial, plus DiscoverOrg's costs including reasonable attorney fees.

#### **FIFTH CLAIM FOR RELIEF**

(Misappropriation)

39. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1 - 14.

40. DiscoverOrg gathers, organizes, generates, collects, and assembles in-depth, commercially-valuable information (including reporting structures, contact information, and other data) expending substantial time, labor, and expense.

41. WeSucceed intentionally and without permission, accessed, and copied information from the database, used the stolen information for their own financial gain, and

1 profited therefrom. WeSucceed has taken a “free-ride” on DiscoverOrg’s skill, labor, and,  
2 costly and substantial efforts in creating its commercially-valuable database.

3 42. WeSucceed’s actions have damaged DiscoverOrg in the form of lost profits and  
4 diminution of the market value of its database. By reason of the foregoing, misappropriation of  
5 DiscoverOrg’s data, WeSucceed is liable to DiscoverOrg for compensatory damages including  
6 wrongfully derived revenues in an amount to be proven at trial.

7 **SIXTH CLAIM FOR RELIEF**

8 (Trespass to Chattels)

9 43. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1 -  
10 14.

11 44. DiscoverOrg owns a computer system that houses its proprietary electronic  
12 database. DiscoverOrg grants password access to this system only to its clients.

13 45. WeSucceed intentionally accessed DiscoverOrg’s computer system without  
14 authorization and thereby interfered with DiscoverOrg’s possessory interest in its computer  
15 systems.

16 46. As a result of WeSucceed’s trespass to DiscoverOrg’s computer system,  
17 WeSucceed caused damage to DiscoverOrg’s database including, but not limited to, the  
18 diminution in the market value of DiscoverOrg’s computerized data and information stored on  
19 such computer system. By reason of the foregoing, WeSucceed is liable to DiscoverOrg for  
20 compensatory damages in an amount to be proven at trial.

21 **SEVENTH CLAIM FOR RELIEF**

22 (Unjust Enrichment)

23 47. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1 -  
24 14.

25 48. Through WeSucceed’s wrongful actions described herein, WeSucceed has been  
26 unjustly enriched through the use of DiscoverOrg’s commercial-valuable data without  
27 compensation to DiscoverOrg.

1           49.     WeSucceed is therefore liable to DiscoverOrg to the extent of such unjust  
2 enrichment in an amount to be determined at trial.

3                               **EIGHTH CLAIM FOR RELIEF**

4                               (Negligence)

5           50.     DiscoverOrg incorporates herein by reference the allegations in paragraphs 1 -  
6 14.

7           51.     At all relevant times, WeSucceed was under a duty to take reasonable care in  
8 training and supervising its employees and other agents acting on its behalf.

9           52.     It was foreseeable that the failure to train and supervise employees and other  
10 agents regarding appropriate methods for obtaining sales and marketing information for the  
11 benefit of WeSucceed would harm a third party such as DiscoverOrg.

12          53.     WeSucceed breached its duty when it failed to train and supervise its employees  
13 by allowing them in the unlawful conduct set forth in this complaint. In particular, WeSucceed  
14 failed to properly implement and enforce a policy prohibiting such conduct, as would be  
15 required of a reasonable person.

16          54.     As a direct and proximate result of WeSucceed's negligence, DiscoverOrg has  
17 suffered damage in the form of lost profits and diminution of the market value of its database.  
18 WeSucceed is liable to DiscoverOrg for compensatory damages in an amount to be proven at  
19 trial.

20                               **PRAYER FOR RELIEF**

21           WHEREFORE, DiscoverOrg prays for the following relief:

- 22           1.     entry of judgment in its favor and against WeSucceed on all counts;  
23           2.     as to its First Claim for Relief, actual or statutory damages plus costs including  
24 reasonable attorney fees;  
25           3.     as to its Second Claim for Relief, compensatory damages;  
26           4.     to its Third Claim for Relief, actual, statutory, and punitive damages plus costs,  
27 including reasonable attorney fees;

1           5.       as to its Fourth Claim for Relief, reasonable royalties, compensatory damages,  
2 wrongfully derived revenues, and exemplary damages plus costs, including reasonable attorney  
3 fees;

4           6.       as to its Fifth Claim for Relief, compensatory damages;

5           7.       as to its Sixth Claim for Relief, compensatory damages;

6           8.       as to its Seventh Claim for Relief, the amount by which WeSucceed has been  
7 unjustly enriched;

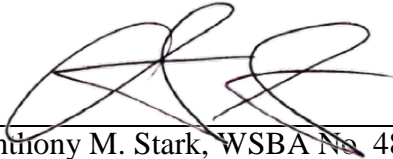
8           9.       as to its Eighth Claim for Relief, compensatory damages; and

9           10.      such other relief as the Court may deem just and equitable.

10 DATED: August 21, 2015

11                               Respectfully submitted,

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13  
14 By

  
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